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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/621,513	07/21/2000	James E. Mower	0794.022	4849

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HESLIN ROTHENBERG FARLEY & MESITI PC  
5 COLUMBIA CIRCLE  
ALBANY, NY 12203

EXAMINER

SOLOMON, GARY L

ART UNIT	PAPER NUMBER
2615	6

DATE MAILED: 04/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/621,513

Applicant(s)

MOWER, JAMES E.

Examiner

Gary L Solomon

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 3-22-04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 2-22-04 have been fully considered but they are not persuasive.
2. With respect to the Ellenby (US 6,307,556) reference, the examiner respectfully disagrees with the applicant that the teaching does not meet all the requirements and limitations of independent claim 1.

The term, "digital elevation model", referred to in claim 1, is read by the examiner with the broadest reasonable interpretation. Merriam Webster defines model as 'a miniature representation of something.' In the present situation, the image displayed of the mountain in Figure 9 is a miniature representation of the mountain.

The vision system present in Ellenby operates in the digital domain (Column 2, Lines 22-24).

Therefore, the model in Figure 9 of the mountain clearly represents a digital elevation model.

In response to applicant's argument that the reference fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "three dimensional digital data about a scene used to create a three-dimensional perspective model of the scene in two dimensions") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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The applicant further argues that the term “registering” in claim 1 has meaning by stating “registering refers to lining up the image and elevation model such that the same point has the same coordinates in both, allowing for some alignment error.”

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., “registering refers to lining up the image and elevation model such that the same point has the same coordinates in both, allowing for some alignment error.”) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Nevertheless, Ellenby still registers the two images taken in his composite images system. In Figure 1, Ellenby illustrates how <sup>two</sup> ~~two~~ images are viewed from different viewing angles in which the other perspective may not be fully visible from the first location. The images are registered together electrically by translating common image information present in both viewing perspectives (Column 5, Lines 50-67). The images are aligned correctly and are <sup>thus</sup> ~~this~~ registered.

The examiner wishes to conclude the applicant's current confusion about what is meant by a composite image. Figure 1 clearly represents two cameras, which capture image information. Furthermore, the composite image in Ellenby comprises of image information from both viewing perspectives (Column 3, 14-37).

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The image information does comprise of multiple images, contrary to the applicant's belief. When a scene is blocked from the first perspective, the second perspective is used to augment the blocked image into the viewers direct line-of-sight (Column 4, lines 54-61).

On page 3 of the previous office action, the examiner previously admitted that the Ellenby reference did not explicitly teach registering the digital image. Ellenby never used the word "registering." However, Merriam Webster defines register as "to be correct in alignment." Ellenby in Column 7, Lines 50-67, teaches aligning the image correctly with the image from the other perspective. Therefore, Ellenby does inherently teach registering the digital image.

In order to exchange information about the images taken from the other vision systems and to augment images with image information, a communications network must link the system. Otherwise, it could not communicate or exchange information.

The applicant admits on page 8 of his remarks that Ellenby discloses sending information from one vision system to another. Therefore, there is information exchange through a communications network.

In Column 5, Line 67, Ellenby teaches how multiple vision systems form the composite image. When one part of the image is blocked by the first vision system, the second vision system is asked to translate to the first vision system what should appear in the blocked region of the first scene. Thus, a composite image is formed from multiple images. Again the information exchange must be through the communications network.

Independent claims 20 and 37 contain limitations similar to those noted above with respect to claim 1. Thus, the response to arguments with respect to claim 1 are equally applicable to claims 20 and 37. Therefore, Ellenby et al also anticipate claims 20 and 37.

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***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 5, 6, 7, 14, 15, 16, 17, 18, 20, 20, 21, 24, 25, 37, 38, 41, 42, and 49-53 are rejected under 35 U.S.C. 102(e) as being Ellenby by (US 6,307,556) under same grounds as stated in the previous office action.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 9, 10, 12, 22, 27, 28, 30, 39, 44, 45, 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellenby by (US 6,307,556) in view of Matsuoka (US 2001/0028350) under same grounds as stated in the previous office action..

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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8. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary L Solomon whose telephone number is (703)-305-4370.

10. The examiner can normally be reached on Monday - Friday 8:00 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's primary, Vu Le can be reached on (703)-308-6613.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**Or faxed to:**

**(703) 872-9314**, (for informal or draft communications, please label  
"Proposed" or "Draft")


Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

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Any inquiry of a general nature or relating to the status of this application should be directed to the customer service number (703) 306-0377.

Gary Lee Solomon

April 28, 2004

  
VU LE  
PRIMARY EXAMINER